

KERN, SEGAL & MURRAY  
Philip A. Segal (SBN 137633)  
[phil@kernlaw.com](mailto:phil@kernlaw.com)  
15 Southgate Avenue, Suite 200  
Daly City, CA 94015  
Tel: (415) 474-1900 Fax: (415) 474-0302

Attorney for Defendants Mercury General Corporation,  
Mercury Casualty Company, California Automobile Insurance Company,  
Randall R. Petro, Tara L. Strong, Kern Segal & Murray, Philip A. Segal,  
Bryana S. McGuirk, Todd P. Drakeford, Michael G. Thomas, Grace M.  
Harriett

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

JAMES J. ISON AND THE ISON  
LAW FIRM, PC,

Plaintiffs,

vs.

SUPERIOR COURT OF  
CALIFORNIA, COUNTY OF SAN  
FRANCISCO, ETHAN P.  
SCHULMAN, THE JUDICIAL  
COUNCIL OF CALIFORNIA,  
TANI G. CANTIL-SAKAUYE,  
MERCURY INSURANCE  
COMPANY, MERCURY CASUALTY  
COMPANY, CALIFORNIA  
AUTOMOBILE INSURANCE  
COMPANY, RANDALL R. PETRO,  
TARA L. STRONG, KERN SEGAL &  
MURRAY, PHILIP A. SEGAL,  
BRYANA S. MCGUIRK,  
TODD P. DRAKEFORD, MICHAEL  
S. THOMAS, GRACE M. HARRIET,  
STUART D. DIAMOND, STUART  
DIAMOND LAW & MEDIATION  
OFFICE, STACEY DIAMOND-  
GARCIA AND DOES 1 TO 25,

Defendants.

Case No.: 2:21-cv-01546-MCE-KJN

**DEFENDANTS' REQUEST FOR  
JUDICIAL NOTICE IN SUPPORT  
OF MOTION TO DISMISS FIRST  
AMENDED COMPLAINT**

[Concurrently filed Notice of Motion  
and Motion to Dismiss First Amended  
Complaint; Supporting Memorandum  
of Points and Authorities; and  
Proposed Order]

Date: December 2, 2021  
Time: 2:00 p.m.  
Place: Robert T. Matsui United  
States Courthouse  
501 I Street  
Sacramento, CA 95814

Courtroom: 7, 14th Floor  
Assigned to Hon. Morrison C. England,  
Jr.

**REQUEST FOR JUDICIAL NOTICE**

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendants Mercury General Corporation, Mercury Casualty Company, California Automobile Insurance Company, Randall R. Petro, Tara L. Strong, Kern Segal & Murray, Philip A. Segal, Bryana S. McGuirk, Todd P. Drakeford, Michael G. Thomas, Grace M. Harriett, (“Defendants”) respectfully request the Court to take judicial notice of the following documents from the case files of two pending state court actions in connection with, and in support of, their Motion to Dismiss Plaintiff’s First Amended Complaint pursuant Rule 12(b)(6) of the Federal Rules of Civil Procedure:

(A) A **July 12, 2021** Order of the San Francisco Superior Court granting Defendants Mercury Insurance, et al.’s Special Motion to Strike (Anti-Slapp) in SF Superior Court case #CGC-20-589080.

(B) A **September 20, 2021** Order of the San Francisco Superior Court granting Defendants Kern Segal & Murray et al.’s Special Motion to Strike (Anti-Slapp) in SF Superior Court case #CGC-20-589080.

(C) A **September 20, 2021** Order of the San Francisco Superior Court re: Contempt in SF Superior Court case #CGC-20-589080.

(D) A **September 14, 2021** Order of the San Francisco Superior Court Striking Plaintiff’s Verified Statement of Disqualification of Judge Ethan P. Schulman for Cause; Verified Answer of Ethan P. Schulman in SF Superior

1 Court case #CGC-20-589080.

2 (E) An **August 30, 2021** Order of the San Francisco Superior Court  
3 denying Attorney Ison's Motion for Reconsideration in SF Superior Court case  
4 #CGC-20-589080.  
5

6 (F) An **August 30, 2021** Order to Show Cause re: Contempt in SF  
7 Superior Court case #CGC-20-589080.  
8

9 (G) A **March 17, 2021** First Amended Complaint filed by Attorney  
10 Ison against Defendants Mercury Insurance, et al. in SF Superior Court case  
11 #CGC-20-589080.  
12

13 (H) A **December 31, 2020** Complaint filed by Attorney Ison against  
14 Defendants Mercury Insurance, et al. in SF Superior Court case #CGC-20-  
15 589080.  
16

17 (I) A **September 7, 2021** filing by Attorney Ison entitled "Plaintiff's  
18 Verified Statement of Disqualification of Judge Ethan P. Schulman for Cause"  
19 in SF Superior Court case #CGC-20-589080.  
20

21 (J) A **September 17, 2021** filing by Attorney Ison entitled "Plaintiff's  
22 Response to Order to Show Cause Regarding Contempt" in SF Superior Court  
23 case #CGC-20-589080.  
24

25 (K) A Complaint filed **September 13, 2019** in San Mateo Superior  
26 Court (Case #19CIV05403), entitled Brenda Talens, et al v. Defendants The  
27 Japanese Feast, Inc., et al.  
28

1           (L)    The **May 3, 2021** moving papers filed by Defendants Mercury  
2 Insurance, et al. (“Mercury”) in Support of Mercury’s Special Motion to Strike  
3 First Amended Complaint (Anti-SLAPP) in SF Superior Court case #CGC-20-  
4 589080.  
5

6           (M)   The **May 27, 2021** and **June 4, 2021** opposing papers filed by  
7 Plaintiff Attorney Ison, et al. in Opposition to Mercury’s Special Motion to Strike  
8 First Amended Complaint (Anti-SLAPP) in SF Superior Court case #CGC-20-  
9 589080.  
10

11           (N)   The **June 3, 2021** reply papers filed by Defendants Mercury  
12 Insurance, et al. in (“Mercury”) Support of Mercury’s Special Motion to Strike  
13 First Amended Complaint (Anti-SLAPP) in SF Superior Court case #CGC-20-  
14 589080.  
15

16           (O)   The **August 5, 2021** moving papers filed by Defendants Kern, Segal  
17 & Murray, et al. in Support of Kern, Segal & Murray’s Special Motion to Strike  
18 First Amended Complaint (Anti-SLAPP) in SF Superior Court case #CGC-20-  
19 589080.  
20

21           (P)   The **August 30, 2021** opposing papers filed by Plaintiff Attorney  
22 Ison, et al. in Opposition to Kern, Segal & Murray’s Special Motion to Strike First  
23 Amended Complaint (Anti-SLAPP) in SF Superior Court case #CGC-20-  
24 589080.  
25

26           (Q)   The **September 3, 2021** reply papers filed by Defendants Kern,  
27  
28

1 Segal & Murray, et al. in Support of Kern, Segal & Murray’s Special Motion to  
2 Strike First Amended Complaint (Anti-SLAPP) in SF Superior Court case  
3 #CGC-20-589080.  
4

5 (R) The **June 11, 2021** re-filed First-Amended Complaint by Attorney  
6 Ison against Defendants Mercury Insurance, et al. in SF Superior Court case  
7 #CGC-20-589080.  
8

9 (S) The **July 26, 2017** moving papers filed by Plaintiff Attorney Ison, et  
10 al. in Support of Plaintiff’s Motion for Reconsideration in SF Superior Court case  
11 #CGC-20-589080.  
12

13 (T) The **August 17, 2021** opposing papers filed by Defendants Kern,  
14 Segal & Murray, et al. in Opposition to Plaintiff’s Motion for Reconsideration in  
15 SF Superior Court case #CGC-20-589080.  
16

17 (U) The **August 23, 2021** reply papers filed by Plaintiff Attorney Ison, et  
18 al. in Support of Plaintiff’s Motion for Reconsideration in SF Superior Court case  
19 #CGC-20-589080.  
20

21 “In ruling on a 12(b)(6) motion, a court may generally consider only  
22 allegations contained in the pleadings, exhibits attached to the complaint, and  
23 matters properly subject to judicial notice.” *Swartz v. KPMG LLP*, 476 F.3d  
24 756, 763 (9th Cir. 2007). Federal Rule of Evidence 201(b) provides that courts  
25 may take judicial notice of a fact that is “not subject to reasonable dispute  
26 because it: (1) is generally known within the trial court’s territorial jurisdiction;  
27  
28

1 or (2) can be accurately and readily determined from sources whose accuracy  
 2 cannot reasonably be questioned.” Fed. R. Evid. 201.

3  
 4 A judicially noticed fact must be one not subject to reasonable dispute in  
 5 that it is either (1) generally known within the territorial jurisdiction of the trial  
 6 court or (2) capable of accurate and ready determination by resort to sources  
 7 whose accuracy cannot reasonably be questioned. Fed. R. Evid. 201(b)(1)-(2).  
 8 Judicially noticed facts often consist of matters of public record, such as prior  
 9 court proceedings. See, e.g., *Rothman v. Gregor*, 220 F.3d 81, 92 (2d Cir. 2000)  
 10 (taking judicial notice of a filed complaint as a public record); *Burbank-*  
 11 *Glendale-Pasadena Airport Auth. v. City of Burbank*, 136 F.3d 1360, 1364 (9th  
 12 Cir. 1998) (taking judicial notice of court filings in a state court case where the  
 13 same plaintiff asserted similar and related claims); *Holt v. City of San*  
 14 *Jose*, 92 F. Supp. 2d 996, 998 (N.D. Cal. 2000) (taking judicial notice of  
 15 relevant memoranda and orders filed in state court cases).

16  
 17 A court may take judicial notice of court records in another case. *United*  
 18 *States v. Howard*, 381 F.3d 873, 876 n.1 (9th Cir. 2004). A federal court may  
 19 also take judicial notice of orders made in a state court proceeding. See *Miles v.*  
 20 *California*, 320 F.3d 986, 987 n.1 (9th Cir. 2003). Exhibits A-F are all court  
 21 orders that are subject to judicial notice, but the facts contained in those orders  
 22 are not subject to judicial notice, particularly to the extent they are disputed. See  
 23 *Lee v. City of Los Angeles*, 250 F.3d 668, 690 (9th Cir. 2001) (although a court

1 may take judicial notice of another court's opinion, "it may do so not  
2 for the truth of the facts recited therein, but for the existence of the opinion,  
3 which is not subject to reasonable dispute over its authenticity").  
4

5 As it relates to Exhibits G-U, which are documents filed by various  
6 parties in state court cases in the San Francisco Superior Court and San Mateo  
7 Superior Court, the Court may take judicial notice that the documents were filed  
8 and the date on which they were filed, but may not take judicial notice of any  
9 facts set forth in the documents themselves. See *M/V Am. Queen v. San Diego*  
10 *Marine Constr. Corp.*, 708 F.2d 1483, 1491 (9th Cir. 1983) ("As a general rule,  
11 a court may not take judicial notice of proceedings or records in another cause  
12 so as to supply, without formal introduction of evidence, facts essential to  
13 support a contention in a cause then before it.").

14  
15  
16 DATED: November 3, 2021

17  
18 KERN, SEGAL & MURRAY

19  
20  
21 By: /s/ Philip A. Segal  
22 PHILIP A. SEGAL  
23 [phil@kernlaw.com](mailto:phil@kernlaw.com)  
24 Attorney for Defendants  
25  
26  
27  
28